(1) (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

Single Bench

CIVIL REVISION NO. 148 OF 2005

APPLLICANT :

Hrl Shrivastava S/o Late Shri Dwarika Prasad Shrivastava, Aged about 58 years, occupation Assistant Engineer, Irrigation Department, Kawardha, resident of MIG 483 C Padamnabhpur Durg, Tehsil and District Durg (CG).

P.R. No. 3199/05 Presented by Shri Dev Sanjeev Sharma dated 19/12/05

VERSUS

NON APPLICANT :

Smt. Kalawati Rai Wd/o Late Nagendra Rai, resident of through Shri Bhupnath Singh, r/o Contractor Colony Supela Bhilai Thana Supela Tehsil and District Durg (CG).

MEMORANDUM OF CIVIL REVISION UNDER S. 23(E) OF R.C. ACT. and R/W **SECTION 115 OF CIVIL PROCEDURE CODE**

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(49)

आदेश पत्रक

मामला क्रमांक C.R.NO. 148/05 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25.01.2006

Shri Sunil Sahu, counsel for the applicant.

Shri Shailesh Shukla, counsel for the non-applicant.

Heard.

This revision is directed against the order dated 27/09/2005 passed by the Rent Controlling Authority, Durg, C.G. (henceforth "the Authority") in case No.05/A-90/2003-2004 vide which the application for recovery of the possession of the suit house filed by the non-applicant under Section 23-A of Chhattisgarh Accommodation Control Act, 1961 (henceforth "the Act") has been allowed.

The suit house was owned by Late Nagendra Rai and non-applicant Kalawati Rai is his widow who is landlord of the house according to Section 23-J of the Act filed an application for recovery of the possession of the suit house on the ground that she bona fide requires the suit house for her residential purpose and she has no other suitable accommodation in her possession in Durg. Applicant although after service of summons appeared and filed an application for obtaining leave to defend the application; but remained *ex-parte* in the proceeding. Non-applicant to support her case adduced herself Pt. Bhagawan Choubey and Bhoopnath Singh in evidence. Learned Authority after due appreciation of the evidence, held that non-applicant is widow of the deceased Nagendra Rai. Nagendra Rai, during his lifetime let the house

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(50)

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on rent to the applicant. Learned Authority further held that non-applicant is landlord of the suit house as defined under Section 23-J of the Act and she has no other reasonable accommodation available for her residence other than the suit accommodation, therefore, she needs the suit accommodation bona fide for her own residence.

Section 23-D (3) of the Act provides a presumption clause and according to that unless contrary is proved the requirement by the landlord regarding her bona fide need is to be presumed to be correct.

I am of the opinion that the Authority after due appreciation of the evidence on record properly held that non-applicant is the landlord in accordance with the Section 23-J of the Act and further correctly held that she requires the suit house for her bona fide requirement of her own residence and she has no other suitable accommodation available for her residence. Therefore, the order passed by the Authority does not call for any interference. In the result, the revision is dismissed with costs.

Sd/-
V.K.Shrivastava
Judge

padma